IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 1626 of 2004

RATANLAL
V/S
THE COMM.,WORKMEN COMPENSATION,UDAIPUR

Mr. RAVI BHANSALI, for the appellant / petitioner

Date of Order : 4.1.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

It is contended by learned counsel that the deceased was not using the fiber glass hat provided to the workman for security, and therefore, the appellant is not liable for the compensation.

Suffice it to say, that the appellant's witness, Vela, who himself was the mat on the mines, has clearly admitted, that the cap provided to the workman, on the mine, was only a cloth cap, which can hardly provide any protection from the stones falling on the head. In that view of the matter, it cannot be believed that any fiber glass cap (helmet type cap) was provided for protection.

The other submission made is, that the Tribunal has found the age of the deceased to be 25 years, while in the post mortem report, it is said to be 30 years. The learned Tribunal has found that from the evidence led on behalf of the claimants, the age of the deceased is proved to be 25 years, and that evidence has not been cross-examined. In that view of the matter, in my view, simply because in the post mortem report, the age is mentioned to be 30 years, that cannot be taken to be conclusive. That apart, the question, as to what was the age of the deceased, is a pure question of fact, and the finding is not shown to be vitiated on any substantial question of law.

The appeal thus, has no force, and is hereby dismissed summarily.

(N P GUPTA),J.

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